

EXHIBIT 81

In the Matter Of:

United States vs

Google

KENNETH MARCO HARDIE

November 14, 2023



IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF VIRGINIA

- - - - - x

UNITED STATES OF AMERICA, :

et al., :

Plaintiffs, :

v. : CASE NO.

GOOGLE, LLC, : 1:23-cv-00108-LMB-JFA

Defendant. :

- - - - - x

VIDEOTAPED DEPOSITION OF KENNETH MARCO HARDIE

Tuesday, November 14, 2023

2:07 p.m.

JOB NO. 919087

Pages 1 through 129

Reported by: Cassandra E. Ellis, CSR-CA #14448,

CSR-HI #475, CCR-WA #3484, RPR, RMR, RDR, CRR,

Realtime Systems Administrator #823848

<p style="text-align: right;">Page 106</p> <p>1 A. We didn't get into -- we weren't</p> <p>2 going -- we weren't going -- if your question is</p> <p>3 we were not going through this level of detail</p> <p>4 in terms of individual GMP contracts.</p> <p>5 MR. RYBNICEK: Counsel, we're going</p> <p>6 to object, because I don't think the topic calls</p> <p>7 for a legal understanding of the terms effect.</p> <p>8 He was prepared on -- in understanding what</p> <p>9 contracts exist and what terms are contained in</p> <p>10 them.</p> <p>11 Asking questions about what the</p> <p>12 legal effect of terms are goes beyond the scope</p> <p>13 of the topics in the 30(b)(6) notice.</p> <p>14 MS. CLEMONS: Can we go off the</p> <p>15 record?</p> <p>16 THE VIDEOGRAPHER: Off the record.</p> <p>17 The time is 4:06.</p> <p>18 (Recess.)</p> <p>19 THE VIDEOGRAPHER: On the record.</p> <p>20 The time is 4:08.</p> <p>21 BY MS. CLEMONS:</p> <p>22 Q. Mr. Hardie, did you discuss any</p>	<p style="text-align: right;">Page 107</p> <p>1 other contract terms, besides the -- did you</p> <p>2 prepare to testify as to any other contract</p> <p>3 terms, besides the -- which platforms the ad</p> <p>4 agencies have agreements with respect to?</p> <p>5 A. I would not characterize my prep as</p> <p>6 focused on specific contract terms.</p> <p>7 Q. Okay. So do you know what the</p> <p>8 platform fees are for DV360 for the federal</p> <p>9 agency advertisers?</p> <p>10 A. So in this case, there wouldn't be</p> <p>11 plays and fees, agency platform fees specific</p> <p>12 for the advertiser, because the advertising</p> <p>13 agency is who has the seat or who has the</p> <p>14 contract with Google.</p> <p>15 And many times, like, again, to</p> <p>16 example we use with Google is a massive</p> <p>17 conglomerate of agencies, which does billions of</p> <p>18 dollars with revenue through GMP across many,</p> <p>19 many clients over the course of, you know, a</p> <p>20 year, and so I -- I would -- I cannot speak to</p> <p>21 what volume discounts each holding company would</p> <p>22 have, so I -- I don't -- I don't know.</p>
<p style="text-align: right;">Page 108</p> <p>1 Q. Okay. Do you know whether there</p> <p>2 are any contracts with advertising agencies that</p> <p>3 are specific to particular advertisers,</p> <p>4 particularly federal agency advertisers?</p> <p>5 A. Can you repeat the question or</p> <p>6 rephrase the question?</p> <p>7 Q. Does Google have any contracts with</p> <p>8 advertising agencies that are specific to a</p> <p>9 particular advertiser?</p> <p>10 A. Current contracts, I'm not -- I</p> <p>11 can't say for sure.</p> <p>12 Q. Do you know if Google had any</p> <p>13 contracts with advertising agencies related to</p> <p>14 the 2020 decennial census campaign?</p> <p>15 A. Yes.</p> <p>16 Q. Were they specific to census?</p> <p>17 A. There were specific parts of GMP</p> <p>18 contracts that were related to census.</p> <p>19 Q. What specific parts of GMP</p> <p>20 contracts were related to census?</p> <p>21 A. So the census, itself, was, again,</p> <p>22 as we've talked about earlier, an incredibly</p>	<p style="text-align: right;">Page 109</p> <p>1 large and complicated campaign. There were at</p> <p>2 least eight media agencies buying media, and</p> <p>3 they were all doing it through -- the plan was</p> <p>4 for them to do it through the Wave Maker Seat,</p> <p>5 which is one the agencies there. And the only</p> <p>6 way that we could -- or the campaign, itself,</p> <p>7 could effectively be managed was if it was all</p> <p>8 bought through the Wave Maker Seat.</p> <p>9 That is not normal practice,</p> <p>10 because normally multiple advertising agencies</p> <p>11 aren't working on the same campaign in that way.</p> <p>12 And so there were certain things that we had to</p> <p>13 do or that Google had to do in order to allow</p> <p>14 the census agencies, the advertising agencies,</p> <p>15 to be able to operate within -- within that</p> <p>16 instance to execute the campaign.</p> <p>17 Q. Okay. So in that case, in the case</p> <p>18 of the census 2020 campaign --</p> <p>19 A. Mm-hmm.</p> <p>20 Q. -- Google executed specific</p> <p>21 contracts with Wave Maker and other advertising</p> <p>22 agencies that only governed purchases related to</p>

<p style="text-align: right;">Page 110</p> <p>1 the 2020 census campaign; is that right?</p> <p>2 A. Yes, because there was no other</p> <p>3 way -- no other feasible way for the campaign to</p> <p>4 run. It was such a unique and bespoke example,</p> <p>5 that the normal processes would not have been</p> <p>6 able to -- would not have been feasible in order</p> <p>7 to make the campaign actually run.</p> <p>8 Q. Okay. Are you aware of any other</p> <p>9 federal agency advertisers that have had</p> <p>10 specific mention in advertising agency contracts</p> <p>11 with Google?</p> <p>12 A. Say that again.</p> <p>13 Q. Are you aware of any federal agency</p> <p>14 advertisers -- strike that.</p> <p>15 Are you aware of any contracts that</p> <p>16 Google has with ad agencies, other than the one</p> <p>17 for the census, that are specific to a</p> <p>18 particular advertiser?</p> <p>19 A. I'm not aware.</p> <p>20 MS. CLEMONS: Okay. Do -- all</p> <p>21 right. I think we're going to take a short</p> <p>22 break, and then we'll come back on the record</p>	<p style="text-align: right;">Page 111</p> <p>1 and finish up.</p> <p>2 THE VIDEOGRAPHER: Off the record.</p> <p>3 The time is 4:13.</p> <p>4 (Recess.)</p> <p>5 THE VIDEOGRAPHER: On the record.</p> <p>6 The time is 4:25.</p> <p>7 BY MS. CLEMONS:</p> <p>8 Q. Okay. Mr. Hardie, I just have a</p> <p>9 couple more quick questions for you.</p> <p>10 A. Okay.</p> <p>11 Q. Maybe more than a couple, but do</p> <p>12 you know who Erin Corkins is?</p> <p>13 A. That name sounds familiar.</p> <p>14 Q. Okay. Do you know if she works</p> <p>15 with Anthony Altimari or in that group?</p> <p>16 A. I don't believe she actually works</p> <p>17 with Anthony Altimari --</p> <p>18 Q. Okay.</p> <p>19 A. -- if I remember correctly.</p> <p>20 Q. Okay. Do you know what a DVIP is?</p> <p>21 A. Yes.</p> <p>22 Q. What is that?</p>
<p style="text-align: right;">Page 112</p> <p>1 A. Display and video incentive</p> <p>2 program.</p> <p>3 Q. And, briefly, what is a -- what is</p> <p>4 the display and video incentive program?</p> <p>5 A. It is essentially a volume discount</p> <p>6 for a certain level of display and video spend.</p> <p>7 Q. Okay. And is that volume discount</p> <p>8 for an ad agency broadly or for a specific</p> <p>9 advertiser?</p> <p>10 A. It actually could be both or</p> <p>11 either, I should say.</p> <p>12 Q. Are you aware of any DVIPs that are</p> <p>13 specific to federal agency advertisers?</p> <p>14 MR. RYBNICEK: Objection to form.</p> <p>15 A. There have been DVIPs on behalf of</p> <p>16 federal agencies before.</p> <p>17 Q. Do you recall any specific ones in</p> <p>18 the past five years?</p> <p>19 A. Veteran's Affairs.</p> <p>20 Q. Okay. So there was a specific</p> <p>21 display and video incentive plan for Veteran's</p> <p>22 Affairs?</p>	<p style="text-align: right;">Page 113</p> <p>1 A. Yes.</p> <p>2 Q. Okay. Was that signed by Veteran's</p> <p>3 Affairs or by their ad agency?</p> <p>4 A. It was signed by Reingold.</p> <p>5 Q. Okay. DV360 -- I'm sorry to jump</p> <p>6 around here -- is DV360, does that include</p> <p>7 YouTube Select?</p> <p>8 A. YouTube Select is the most premium</p> <p>9 inventory on YouTube. YouTube can be bought</p> <p>10 through DV360, so kind of translatable property</p> <p>11 there, you can buy YouTube Select DV.</p> <p>12 Q. Okay. So it can include YouTube</p> <p>13 Select?</p> <p>14 A. Yes, it can.</p> <p>15 Q. Or folks can buy YouTube Select</p> <p>16 through other --</p> <p>17 A. You can buy YouTube Select directly</p> <p>18 through Google Ads.</p> <p>19 Q. Okay. Are you familiar with GMP</p> <p>20 order forms?</p> <p>21 A. Specific order forms?</p> <p>22 Q. Or just the concept of Google</p>

1 MR. RYBNICEK: Thank you.
2 **THE WITNESS: Thank you.**
3 THE VIDEOGRAPHER: This concludes
4 today's deposition.
5 We are off the record at 4:42.
6 (Signature having not been waived,
7 the deposition of KENNETH MARCO HARDIE was
8 concluded at 4:42 p.m.)
9 ACKNOWLEDGMENT OF DEPONENT
10 I, KENNETH MARCO HARDIE, do hereby
11 acknowledge that I have read and examined the
12 foregoing testimony, and the same is a true,
13 correct and complete transcription of the
14 testimony given by me and any corrections appear
15 on the attached Errata sheet signed by me.
16
17 _____
18 (DATE) (SIGNATURE)

1 CERTIFICATE OF SHORTHAND REPORTER
2 I, Cassandra E. Ellis, Registered
3 Professional Reporter, the officer before whom
4 the foregoing proceedings were taken, do hereby
5 certify that the foregoing transcript is a true
6 and correct record of the proceedings; that said
7 proceedings were taken by me stenographically
8 and thereafter reduced to typewriting under my
9 supervision; and that I am neither counsel for,
10 related to, nor employed by any of the parties
11 to this case and have no interest, financial or
12 otherwise, in its outcome.
13 IN WITNESS WHEREOF, I have hereunto
14 set my hand this 15th day of November 2023.
15
16 *Cassandra E. Ellis*
17 _____
18 CASSANDRA E. ELLIS, CSR-CA #14448, CCR-WA #3484,
19 CSR-HI #475, RPR, RMR, RDR,
20 CRR, REALTIME SYSTEMS
21 ADMINISTRATOR #823848
22

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